

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

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JUN 22 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

*In the Matter of*

AirTouch Paging Petition for Rulemaking to  
Establish a Dedicated 8XX Code for Toll-Free  
Calls Placed from Pay Telephones

RM-9273

**REPLY COMMENTS OF THE  
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association ("PCIA") strongly supports the above-captioned petition for rulemaking filed by AirTouch Paging as a viable solution to many of the problems arising from the implementation of the payphone compensation provisions of Section 276 of the Communications Act of 1934, as amended.<sup>1</sup> As the demand for call blocking—to the extent it is available—demonstrates, subscribers clearly want the ability to control otherwise unpredictable payphone compensation obligations. Ideally, they would also have an option—unlike call blocking—that does not limit the availability of toll-free 8XX services. AirTouch Paging's proposal would provide such an option in the form of a dedicated 8XX code for payphone-originated toll-free calls. None of the initial comments presents a persuasive reason for the Commission to refrain from initiating a rulemaking regarding AirTouch Paging's proposal.

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<sup>1</sup> See AirTouch Paging Petition for Rulemaking to Establish a Dedicated 8XX Code for Toll-Free Calls Placed from Payphones, RM-9273 (filed Apr. 17, 1998) ("AirTouch Paging Petition").

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## **I. AIRTOUCH PAGING'S PROPOSAL WOULD SERVE THE PUBLIC INTEREST**

AirTouch Paging's proposal would serve the public interest in two significant ways.

First, it would meet customer demand for an option that gives a toll-free 8XX subscriber some control over payphone compensation obligations. Second, it would enhance customer choice without impairing other service offerings, namely toll-free 8XX services.

### **A. DEMAND FOR CALL BLOCKING INDICATES THERE WOULD BE STRONG DEMAND FOR A DEDICATED 8XX FOR TOLL-FREE CALLS FROM PAYPHONES**

Demand for call blocking by 800 subscribers—to the extent such blocking is even available—indicates that a dedicated 8XX for toll-free calls from payphones would also be in high demand. At present, numerous 800 subscribers, including paging carriers, have resorted to call blocking as a means for controlling unquantifiable payphone compensation obligations.<sup>2</sup> Indeed, the LECs themselves have previously cited demand by paging carriers for call blocking,<sup>3</sup> thereby contradicting their latest claims that there is no demand for AirTouch Paging's proposal.<sup>4</sup> While subscribers who choose to block calls recognize that call blocking limits or eliminates the availability of their services from payphones, they have decided that on balance their interests are better served by blocking payphone calls.

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<sup>2</sup> See Mike Mills, *That New Number: 1-800-BLOCKED*, Washington Post, December 3, 1997, at B11. Paging carriers have never argued that payphone service providers should be providing for free toll-free services from payphones. Instead, they have maintained that the current system does not allow them to predict or in any way control payphone compensation obligations, short of call blocking.

<sup>3</sup> See, e.g., Opposition of the RBOC/GTE/SNET Coalition to PCIA's Request for Stay, CC Docket No. 96-128, at 5-6 & exh. A (filed Dec. 9, 1998).

**B. A DEDICATED 8XX CODE WOULD ENHANCE CUSTOMER CHOICE WITHOUT IMPAIRING OTHER SERVICE OFFERINGS**

AirTouch Paging's proposal would allow toll-free 8XX subscribers such as paging carriers to control payphone compensation obligations without depriving callers of the option of making toll-free calls from payphones. This proposal would also allow subscribers and their customers a choice between a dedicated 8XX scheme, a carrier pays scheme without call blocking, and a carrier pays scheme with call blocking.<sup>5</sup> Most importantly, AirTouch Paging's proposal does not impair the development and proliferation of 800 services as call blocking currently does—either directly through uncompleted calls or indirectly due to consumer uncertainty about whether or not a toll-free call from a payphone will be completed. Beyond its potentially harmful effects, call blocking remains largely unavailable. Some commenters have suggested that AirTouch Paging's proposal is unnecessary given the option of call blocking. But effective, targeted call blocking is not yet an option. Moreover, the LECs continue to seek waivers of the requirements to provide the coding digits necessary for call

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<sup>4</sup> RBOC/GTE/SNET Payphone Coalition Opposition, RM-9273, at 7-9 (filed June 5, 1998) (claiming that demand for a dedicated 8XX "seems limited").

<sup>5</sup> In offering this choice, it is clear that the AirTouch Paging proposal is not a comprehensive caller pays system of payphone compensation, contrary to the insinuations of some commenters. *See* Comments of the American Public Communications Council, RM-9273, at 7 (filed June 5, 1998) ("APCC Comments"). To the extent that AirTouch Paging's proposal shares similarities with a caller pays system—a true market-based solution long advocated by PCIA—the proposal is still consistent with the Commission's Payphone Orders and the D.C. Circuit's opinions regarding the Commission's implementation of Section 276. The Commission has never ruled out the option of a dedicated 8XX within a carrier pays compensation scheme. Moreover, the D.C. Circuit's most recent opinion leaves the Commission with no choice but a caller pays system should it continue to insist on a market-

[Footnote continued on next page]

blocking services even to be offered. These ongoing delays only underscore the need for an alternative to call blocking. The AirTouch Paging proposal provides one.

## **II. AIRTOUCH PAGING'S PROPOSAL WOULD BE MORE UNDERSTANDABLE TO CONSUMERS THAN THE COMMISSION'S CURRENT CARRIER PAYS-CALL BLOCKING SCHEME**

The suggestion that AirTouch Paging's proposal would confuse consumers or cause harm to the existing scheme for toll-free 8XX codes is spurious. Contrary to the allegations of some commenters,<sup>6</sup> AirTouch Paging's scheme would be *less* confusing than the existing one, which is premised entirely on call blocking.

At present, when an 800 subscriber requests that an IXC block payphone-originated calls, the caller is likely to experience one of two situations, although a third is theoretically possible. First, the call may simply not go through, in which case the caller will have no indication why the call was not completed. The caller may know that the 800 subscriber has blocked payphone calls, but the caller is just as likely to think that he or she misdialed, or that the number is no longer in service. Second, the caller may hear an intercept message stating the call did not go through, and again, the caller will have no idea why the call was not completed. Third, it may be possible to create a separate intercept message stating either that the toll-free service is not available from payphones—a system that would also entail implementation costs to be borne by the carriers and likely passed on to their customers. In all three cases, however, the 8XX code

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based compensation scheme. *See MCI Telecommunications Corp. v. FCC*, Case No. 97-1675 (D.C. Cir.) (decided May 15, 1998).

<sup>6</sup> *See* Comments of Sprint Corporation, RM-9273, at 2 (filed June 5, 1998); APCC Comments, at 13-16.

alone does not tell a caller whether or not the specific service—toll-free calling—will be available for a particular 8XX number at a particular payphone.

Compared to the current system, AirTouch's proposal would provide callers with more complete information and would not discourage payphone use. Most importantly, it would provide the caller with a prompt indicating that a coin deposit is necessary to complete the call.<sup>7</sup> The caller would know that a coin deposit—at the local toll rate—is required, and the caller would not be left wondering why the call did not go through. Moreover, it would not discourage payphone use due to caller uncertainty about whether or not a call will go through. As discussed above, call blocking only discourages payphone use.<sup>8</sup>

### **III. AIRTOUCH'S PROPOSAL IS PROPERLY THE SUBJECT OF A TIMELY RULEMAKING BEFORE THE COMMISSION**

As a proposal relating to the implementation of Section 276, AirTouch's proposal for a dedicated 8XX code is properly before the Commission. AirTouch Paging's proposal would require amendment of the Commission's rules. Only the Commission itself—and not industry or standards organizations such as the Alliance for Telecommunications Industry Solutions ("ATIS") or its Industry Numbering Committee ("INC")—has the legal authority to adopt or modify the Commission's rules.<sup>9</sup> In fact, the Commission has adopted numerous rules and rule

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<sup>7</sup> AirTouch Paging Petition, at 8 n.20.

<sup>8</sup> See Comments of MobileMedia Corporation, RM-9273, at 3 (filed June 5, 1998).

<sup>9</sup> See 47 U.S.C. § 151 (Commission shall execute and enforce the Communications Act of 1934), § 154(i) (Commission may make rules and regulations and issue orders not inconsistent with the Communications Act of 1934), § 155(c)(1) (Commission may delegate certain functions to individual Commissioners or employees, but not to industry organizations or their members).

changes in the course of the payphone compensation proceedings in CC Docket No. 96-128.<sup>10</sup> The RBOC/GTE/SNET Payphone Coalition's suggestion that AirTouch take its proposal to INC is therefore inappropriate.<sup>11</sup>

As a practical matter, a Commission rulemaking is the ideal forum for vetting AirTouch's proposal. Contrary to the suggestion of the RBOC/GTE/SNET Phone Coalition, AirTouch Paging's proposal is not equivalent to an allocation matter or an intractable industry dispute.<sup>12</sup> Instead, it addresses many of the competitive and technological issues with which the Commission continues to grapple in implementing Section 276. These concerns fall within the purview of the Commission. While industry and standard organizations such as INC perform valuable planning, administrative, and allocational functions and in mediating industry disputes, they are ill-equipped to address the significant policy issues raised in AirTouch Paging's petition.

Finally, the Commission should address AirTouch Paging's petition in a timely manner, and certainly within the six-month deadline established by the D.C. Circuit for the Commission's compliance with the court's remand.<sup>13</sup> The issues raised in the AirTouch Paging petition are intertwined with those at issue in the remand, and the Commission should treat them as such.

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<sup>10</sup> See *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report & Order*, 11 FCC Rcd. 20541, 20720-24 app. E (1996); *In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Order on Reconsideration*, 11 FCC Rcd. 21233 21352-53 app. C (1996).

<sup>11</sup> See RBOC/GTE/SNET Coalition Opposition, at 5-6.

<sup>12</sup> *Id.*

<sup>13</sup> See *MCI Telecommunications Corp. v. FCC*, Case No. 97-1675 (D.C. Cir.) (decided May 15, 1998).

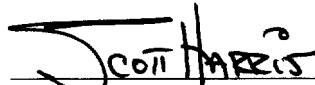
## CONCLUSION

For the reasons set forth above, the Commission initiate a rulemaking to consider, and eventually adopt, AirTouch Paging's proposal for a dedicated 8XX for toll-free calls from payphones.

Respectfully submitted,

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Dated: June 22, 1998

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